

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

WILLIE RAY LEWIS,

Petitioner,

vs.

STATE OF NEVADA, *et al.*

Respondents.

2:10-cv-01225-PMP-PAL

ORDER

This habeas action under 28 U.S.C. § 2254 comes before the Court on Petitioner's motion (#15) to reopen the case, motion (#16) to file a second amended petition, three motions (## 17–19) seeking appointment of counsel, motion (#20) to supplement the amended petition, and motion (#14) to raise his prison copy credit limit.

The Court will grant the motions to reopen the case and to file a second amended petition following upon Petitioner's pursuit of state judicial remedies during the stay. The Court notes that Petitioner again has failed to name his physical custodian in the pleading, and this order does not signify that the pleading otherwise is free of deficiencies.

Following further screening review, and based upon the current record, the Court finds that the interests of justice warrant the appointment of counsel, taking into account: (a) the aggregate sentence of life with a 24-year minimum imposed in 2006 together with petitioner's current age of 47, such that petitioner will be incarcerated until approximately the age of 66; (b) the number and complexity of the claims and potential procedural issues; (c) the possibility that there may be limited time remaining in the federal one-year limitation period for the

1 assertion of claims; and (d) this Court's decision regarding access to court and legal resource
2 issues at the Lovelock Correctional Center in *Koerschner v. Warden*, 508 F.Supp.2d 849
3 (D.Nev. 2007), to which Petitioner has been transferred subsequent to the initial
4 commencement of this action.

5 The motion to supplement the amended petition, which seeks to file a copy of the
6 remittitur, will be granted.

7 The motion to raise Petitioner's copy credit limit will be denied. The Court does not
8 grant blanket copy credit limit increases, and a petitioner further must provide documentary
9 evidence reflecting that he has exceeded the credit limit and has no funds available for copy
10 expenses. The motion in any event is moot following upon the appointment of counsel.

11 IT THEREFORE IS ORDERED that Petitioner's motion (#15) to reopen the case is
12 GRANTED and that the Clerk of the Court shall REOPEN the matter.

13 IT FURTHER IS ORDERED that Petitioner's motion (#16) to file a second amended
14 petition is GRANTED and the Clerk shall file the pleading submitted with the motion.

15 IT FURTHER IS ORDERED that Petitioner's motion (#20) to supplement the amended
16 petition is GRANTED and that his motion (#14) to raise his prison copy credit limit is DENIED.

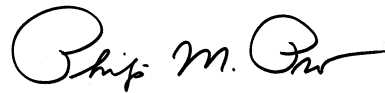
17 IT FURTHER IS ORDERED that Petitioner's motions (## 17–19) seeking appointment
18 of counsel are GRANTED. The counsel appointed will represent petitioner in all proceedings
19 related to this matter, including any appeals or *certiorari* proceedings, unless allowed to
20 withdraw.

21 IT FURTHER IS ORDERED that the Federal Public Defender shall be provisionally
22 appointed as counsel and shall have thirty (30) days to undertake direct representation of
23 petitioner or to indicate an inability to do so. If the Federal Public Defender is unable to
24 represent Petitioner, the Court then shall appoint alternate counsel. A deadline for the filing
25 of an amended petition will be set after entry of an appearance. **For this case, counsel shall**
26 **state in the notice of appearance the time that counsel estimates is needed to**
27 **investigate the matter and prepare an amended petition. The Court notes that, absent**
28 **tolling, the federal limitation period potentially may run through July 8, 2011.**

1 IT FURTHER IS ORDERED that Respondents' counsel shall enter a notice of
2 appearance within twenty (20) days of entry of this order, but no further response shall be
3 required from Respondents until a further order directing same. The Court notes that informal
4 electronic service on the Attorney General previously was effected in this matter.

5 The Clerk accordingly shall send a copy of this order (together with an attachment with
6 a copy of the second amended petition) to the *pro se* petitioner, the Attorney General, the
7 Federal Public Defender, and the CJA Coordinator for this Division.

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9 DATED: May 11, 2011.

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13 PHILIP M. PRO
14 United States District Judge
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